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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/224,009
Filing Date: December 31, 1998
Appellant(s): SLAWSON ET AL.

Gary S. Kindness
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 23, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

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(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows: Appellant's discussion of *prima facie* establishment, as well as summaries of the cited references and arguments based on the merits (pages 12-14 of the appeal brief) belong in the argument section of the brief. For purposes of compact prosecution, the examiner will address these arguments in the argument section of the brief (beginning on page 14).

(7) *Grouping of Claims*

Appellant's brief includes a statement that the claim groupings as presented do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

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(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,493,677	BALOGH ET AL.	2-1996
5,696,964	COX ET AL.	12-1997

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 11-12, 14-32, 34-35, 37-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balogh et al. (hereinafter Balogh), U.S. Patent No. 5,493,677 issued February 20, 1996, in view of Cox et al. (hereinafter Cox), U.S. Patent No. 5,696,964 issued December 09, 1997 (originally referenced in a previous action).

In regard to independent claim 1, Balogh teaches an application program comprising plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects (Balogh Abstract, column 1 lines 56-64, column 3 lines 29-34, column 5 lines 48-57, Figure 6, 14; compare with claim 1 "*A method for searching a media clip*

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database associated with a multimedia application program, wherein said media clip database contains.... that describes each associated media clip in said media clip database, comprising:".

Balogh teaches a "captioner" which provides metadata in the form of a caption describing salient features of an image, bibliographic data, "suggest fields" and attributes of said image, for each image (Balogh column 3 lines 20-43). Since said data can include descriptive words (i.e. caption "blue collar" – Balogh column 6 lines 38-44), and since Balogh teaches that keyword searching can be applied to querying (Balogh column 12 lines 8-14), as well as teaching that captions/bibliographic information can be reused for iterative querying (Balogh column 14 lines 40-60), said teachings provide a reasonable suggestion to one of ordinary skill in the art at the time of the invention, of the use of said metadata data as keywords, providing Balogh the benefit of querying with descriptive keywords for searching various image databases (compare with claim 1 "*keywords*").

Balogh teaches a user performing an initial query (Balogh column 11 lines 60-67, column 12 lines 1-7), resulting in retrieval of captions with images along with associated information (Balogh column 14 lines 3-10, column 16 lines 42-47, 56-67, Figure 12, 13) (compare with claim 1 "*(a) in response to a user selecting a media clip, retrieving information.... associated with said selected media clip from said media clip database*").

Balogh teaches presenting the above captions, images and information to a user for eventual query (Balogh column 14 lines 3-10, 40-60, Figure 12-15; compare with claim 1 "*(b) simultaneously presenting to the user for selection by the user:* ", "*(i) said keywords associated with said media clips;*").

Balogh does not specifically teach hidden criteria. However, Cox teaches PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button "GO", after which said invention searches and presents a second set of images similar to what was initially selected (Cox Figure 2, column 5 lines 29-45, column 8 lines 19-28). Cox's invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented. In choosing an image, the image attributes (i.e. color, shape, etc.) inherent within said image, along with various noted (hidden) features of each image (i.e. contrast, saturation, etc.) , are used as search criteria by the system, (Cox Abstract, column 5 lines 35-45, 62-67, column 6 lines 1-23; compare with

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claim 1 “*including hidden criteria that identifies....*”). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user’s vocabulary (or known to the user) (see Cox column 1 lines 45-47).

Balogh teaches image related criteria using human judgement via the use of a human “captioner”, which verifies the quality of the image and information, and writes a caption, or description of the salient features/attributes of the image, as well as recording evoked emotional suggestions regarding said image (Balogh column 3 lines 28-40, Figure 2 item 262 – at bottom; compare with claim 1 “*based on human judgement regarding the content of the media clip*”).

Balogh teaches an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user drags and drops a selected image into the description/bibliographic area, resulting in transfer of associated information (i.e. keywords, as explained above) to be used or edited in the additional query, resulting in retrieval of additional images (Balogh column 14 lines 40-59, column 16 lines 53-62; compare with claim 1 “*(c) in response to the user selecting a search criteria by selecting one or more of said keywords and/or said find similar clips indicia associated with said selected media clip, retrieving all media clips in said media clip database that match the search criteria created by the user.*”).

In regard to dependent claims 2-4, Balogh teaches display of the best retrieved captions/ images displayed for user review. This process (including displaying a plurality of clip images) is repeated by said user, as desired (Balogh Figure 13-15, column 14 lines 3-10, 40-42, column 16 lines 53-62; compare with claims 2-4).

In regard to dependent claims 5-8, Balogh teaches a media type (images), as well as search criteria based upon color and/or shape (i.e. “*red trucks*”, and “*black cats*” - keywords) (Balogh Abstract, Figure 2, column 11 lines 60-67; compare with claim 5). Balogh does not sepecifically teach hidden criteria as artistic style, shape, and color. However, Cox teaches the analyzation of a user selected image, so that a similar set of images can be retrieved/presented. In choosing an image, the image attributes (i.e. color, shape, etc.) inherent within said image, along with various noted (hidden) features of each image (i.e. pixel color, saturation, contrast, and image width (shape), etc. – suggestive of artistic styles), are used as search criteria by the system, (Cox Abstract, column 5 lines 35-45, 62-67, column 6 lines 1-23; compare with claims 6-8. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user’s vocabulary (or known to the user) (see Cox column 1 lines 45-47).

In regard to dependent claim 9, claim 9 reflects the combined subject matter of claims 7 and 8, and is rejected along the same rationale.

In regard to dependent claims 11-12, Balogh teaches an additional query, whereby a result image is dragged and dropped into a description/bibliographic area, resulting in bibliographic (keyword) data copied to form a new query (in the case of Balogh, all of the data is selected) (Balogh column 14 lines 40-59; compare with claim 11).

Balogh teaches search criteria in the form of keywords as part of a search query, said query (keywords) can be based upon image characteristics or image type (Balogh column 11 lines 60-67, column 12 lines 9-14; compare with claim 12).

In regard to dependent claim 14, Balogh teaches dragging and dropping of a selected image into a description/bibliographic area, resulting in a copy of the image’s bibliographic data (keywords) into formulation

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of a new query. Balogh also teaches searching and presentation of files of type image from an image database (Balogh Abstract, column 14 lines 49-59; compare with claim 14).

In regard to dependent claim 15, a computer readable medium (i.e. diskette or hard drive) used for holding instructions is known in the art.

In regard to independent claim 16, Balogh teaches an application program comprising plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects. It is to be noted that Balogh also discloses associated data regarding what a particular media image suggests, which is indicative of a visual thesaurus (Balogh Abstract, column 1 lines 56-64, column 3 lines 29-34, column 5 lines 48-57, Figure 6, 14, see also Figure 3 item 262, Figure 6 item 606, column 1 lines 59-61, column 3 lines 33-36; compare with claim 16 “*A method for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein said media clip database contains information that describes each associated media clip in said media clip database, comprising*”).

Balogh teaches a “captioner” which provides metadata in the form of a caption describing salient features of an image, bibliographic data, “suggest fields” and attributes of said image, for each image (Balogh column 3 lines 20-43). Since said data can include descriptive words (i.e. caption “blue collar” – Balogh column 6 lines 38-44), and since Balogh teaches that keyword searching can be applied to querying (Balogh column 12 lines 8-14), as well as teaching that captions/bibliographic information can be reused for iterative querying (Balogh column 14 lines 40-60), said teachings provide a reasonable suggestion to one of ordinary skill in the art at the time of the invention, of the use of said metadata data as keywords, providing Balogh the benefit of querying with descriptive keywords for searching various image databases (compare with claim 16 “*keywords*”).

Balogh teaches a user performing an initial query (Balogh column 11 lines 60-67, column 12 lines 1-7), resulting in retrieval of captions with images along with associated information presenting said captions, images

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and information to a user (Balogh column 14 lines 3-10, 40-41, column 16 lines 42-47, 56-67, Figure 12-15) (compare with claim 16 *“directly in response to a user selecting a media clip from said media clip database,”*).

Balogh teaches an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user has the option of visually dragging and dropping a selected image into the description/bibliographic area, resulting in transfer of associated information to be used or edited in the additional query, resulting in retrieval of additional images, said drag and drop is a visual indication of said option (Balogh column 14 lines 40-59, column 16 lines 53-62; compare with claim 16 *“displaying to the user an option for finding similar media clips that have an associated keyword that matches the associated keyword for the selected clip.”*).

Balogh does not specifically teach hidden criteria. However, Cox teaches PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button “GO”, after which said invention searches and presents a second set of images similar to what was initially selected. (Cox Figure 2, column 5 lines 29-45, column 8 lines 19-28). Cox’s invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented. In choosing an image, the image attributes (i.e. color, shape, etc.) inherent within said image, along with various noted (hidden) features of each image (i.e. contrast, saturation, etc.) , are used as search criteria by the system, (Cox Abstract, column 5 lines 35-45, 62-67, column 6 lines 1-23; compare with claim 16 *“find similar clips indicia including hidden criteria...”*). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user’s vocabulary (or known to the user) (see Cox column 1 lines 45-47).

Balogh teaches image related criteria using human judgement via the use of a human “captioner”, which verifies the quality of the image and information, and writes a caption, or description of the salient

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features/attributes of the image, as well as recording evoked emotional suggestions regarding said image (Balogh column 3 lines 28-40, Figure 2 item 262 – at bottom; compare with claim 16 “*based on human judgement regarding the content of the media clip*”).

In regard to dependent claim 17, Balogh teaches a browsing tool for allowing a user to visually browse hits, as well as a number of “select” buttons for choosing certain candidate matches for further examination (Balogh column 16 lines 42-47, 55-60).

In regard to dependent claim 18, Balogh teaches an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user has the option of visually dragging and dropping a selected image into the description/bibliographic area, resulting in transfer of associated information to be used or edited in the additional query, resulting in retrieval of additional images, said drag and drop is a visual indication of said option (Balogh column 14 lines 40-59, column 16 lines 53-62).

In regard to dependent claims 19-21, 23, a fly-out window (i.e. an overlaying window, or balloon help annotation with additional information, etc.), is known in the art (compare with claim 19).

An option for inserting an image into a document (i.e. clipboard copy and paste), is known in the document processing art (compare with claim 20).

Balogh teaches a browser for viewing image hits, said hits comprise a thumbnail (preview) image along with a caption “snippet” from each image (Balogh column 16 lines 63-67, column 17 lines 1-13; compare with claim 21).

A computer readable medium (i.e. diskette or hard drive) used for holding instructions is known in the art (compare with claim 23).

In regard to dependent claim 22, Balogh does not specifically teach an option to add a clip to a category. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Balogh, because Balogh teaches ordering selected images through a purchase/delivery service (Balogh column 17 lines 40-44). In the case of Balogh, images are user selected for purchase (a user voluntarily adding a media clip to a category intended for purchase) (see also Balogh column 17 lines 48-50, and column 18 lines 1-10). Adapting Balogh to incorporate user inclusion of clips into various additional categories as taught by Balogh, provides a user of Balogh the benefit of grouping selected images for further action (i.e. negotiation, reservation, trade, etc.).

In regard to independent claim 24, Balogh teaches a data entry, disambiguation, and database processors within a SUN SPARCSTATION (Balogh column 3 lines 60-67; compare with claim 24 “a processing unit”).

Balogh teaches a computer readable medium (i.e. diskette or hard drive) used for holding instructions and utilized within a computer, is known in the art (compare with claim 24 “a storage medium....by the processing for”).

Balogh teaches an application program comprising plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects, said clips subject to user query and selection (Balogh Abstract, column 1 lines 56-64, column 3 lines 29-34, column 5 lines 48-57, column 16 lines 56-67, column 17 lines 1-13, Figure 6, 14; compare with claim 24 “providing an interface for a user to select a media clip....in said media clip database”).

Balogh teaches a “captioner” which provides metadata in the form of a caption describing salient features of an image, bibliographic data, “suggest fields” and attributes of said image, for each image (Balogh column 3 lines 20-43). Since said data can include descriptive words (i.e. caption “blue collar” – Balogh column 6 lines 38-44), and since Balogh teaches that keyword searching can be applied to querying (Balogh column 12 lines 8-14), as well as teaching that captions/bibliographic information can be reused for iterative querying (Balogh column 14 lines 40-60), said teachings provide a reasonable suggestion to one of ordinary skill in the

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art at the time of the invention, of the use of said metadata data as keywords, providing Balogh the benefit of querying with descriptive keywords for searching various image databases (compare with claim 24 “*keywords*”).

Balogh does not specifically teach hidden criteria. However, Cox teaches PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button “GO”, after which said invention searches and presents a second set of images similar to what was initially selected. (Cox Figure 2, column 5 lines 29-45, column 8 lines 19-28). Cox’s invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented. In choosing an image, the image attributes (i.e. color, shape, etc.) inherent within said image, along with various noted (hidden) features of each image (i.e. contrast, saturation, etc.), are used as search criteria by the system, (Cox Abstract, column 5 lines 35-45, 62-67, column 6 lines 1-23; compare with claim 24 “*find similar clips including hidden criteria...*”). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user’s vocabulary (or known to the user) (see Cox column 1 lines 45-47).

Balogh teaches image related criteria using human judgement via the use of a human “captioner”, which verifies the quality of the image and information, and writes a caption, or description of the salient features/attributes of the image, as well as recording evoked emotional suggestions regarding said image (Balogh column 3 lines 28-40, Figure 2 item 262 – at bottom; compare with claim 24 “*based on human judgement regarding the content of the media clip*”).

Balogh teaches a user performing an initial query (Balogh column 11 lines 60-67, column 12 lines 1-7), resulting in retrieval of captions with images along with associated information, as well as an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user drags and drops a selected image into the description/bibliographic

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area, resulting in transfer of associated information to be used or edited in the additional query, resulting in retrieval of additional images (Balogh column 14 lines 40-59, column 16 lines 42-47, 53-67, Figures 12-13; compare with claim 24 *providing an interface for the user to select... with said selected media clip*", and *"in response to the user....for the selected media clip."*).

In regard to dependent claims 25-32, 34-35, 37, claims 25-32, 34-37 reflect the apparatus comprising computer readable instructions used for performing the methods as claimed in claims 2-9, 11-12, 14, respectively, and are rejected along the same rationale.

In regard to independent claim 38, Balogh teaches an application program comprising plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects. It is to be noted that Balogh also discloses associated data regarding what a particular media image suggests, which is indicative of a visual thesaurus (Balogh Abstract, column 1 lines 56-64, column 3 lines 29-34, column 5 lines 48-57, Figure 6, 14, see also Figure 3 item 262, Figure 6 item 606, column 1 lines 59-61, column 3 lines 33-36; compare with claim 38 *"An apparatus for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein said media clip database contains information.... that describes each associated media clip in said media clip database, comprising"*.

Balogh teaches a "captioner" which provides metadata in the form of a caption describing salient features of an image, bibliographic data, "suggest fields" and attributes of said image, for each image (Balogh column 3 lines 20-43). Since said data can include descriptive words (i.e. caption "blue collar" – Balogh column 6 lines 38-44), and since Balogh teaches that keyword searching can be applied to querying (Balogh column 12 lines 8-14), as well as teaching that captions/bibliographic information can be reused for iterative querying (Balogh column 14 lines 40-60), said teachings provide a reasonable suggestion to one of ordinary skill in the art at the time of the invention, of the use of said metadata data as keywords, providing Balogh the benefit of querying with descriptive keywords for searching various image databases (compare with claim 38 *"keywords"*).

Balogh teaches a data entry, disambiguation, and database processors within a SUN SPARCSTATION (Balogh column 3 lines 60-67; compare with claim 38 “*a processing unit*”).

Balogh teaches a computer readable medium (i.e. diskette or hard drive) used for holding instructions and utilized within a computer, is known in the art (compare with claim 38 “*a storage medium....by the processing unit for...* ”).

Balogh teaches a user performing an initial query (Balogh column 11 lines 60-67, column 12 lines 1-7), resulting in retrieval of captions with images along with associated information presenting said captions, images and information to a user, as well as an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user has the option of visually dragging and dropping a selected image into the description/bibliographic area, resulting in transfer of associated information to be used or edited in the additional query, resulting in retrieval of additional images, said drag and drop is a visual indication of said option (Balogh column 14 lines 3-10, 40-59, column 16 lines 42-47, 53-67; compare with claim 38 “*...displaying to the user an option for finding similar media clips that have associated keywords that matches the associated keywords for a selected media clip, directly in response to the user selecting the media clip.*”).

Balogh does not specifically teach hidden criteria. However, Cox teaches PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button “GO”, after which said invention searches and presents a second set of images similar to what was initially selected. (Cox Figure 2, column 5 lines 29-45, column 8 lines 19-28). Cox’s invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented. In choosing an image, the image attributes (i.e. color, shape, etc.) inherent within said image, along with various noted (hidden) features of each image (i.e. contrast, saturation, etc.) , are used as search criteria by the system, (Cox Abstract, column 5 lines 35-45, 62-67, column 6 lines 1-23; compare with claim 38 “*find similar clips indicia including hidden criteria....*”). It would have been obvious to one of ordinary

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skill in the art at the time of the invention to apply Cox to Balogh, providing Balogh the benefit of intelligent (accurate) analyzation of media images incorporating hidden search criteria, which may not be explicitly present in a user's vocabulary (or known to the user) (see Cox column 1 lines 45-47).

Balogh teaches image related criteria using human judgement via the use of a human "captioner", which verifies the quality of the image and information, and writes a caption, or description of the salient features/attributes of the image, as well as recording evoked emotional suggestions regarding said image (Balogh column 3 lines 28-40, Figure 2 item 262 – at bottom; compare with claim 38 "*based on human judgement regarding the content of the media clip*").

In regard to dependent claims 39-43, claims 39-43 reflect the apparatus comprising computer readable instructions used for performing the methods as claimed in claims 17-21, respectively, and are rejected along the same rationale.

In regard to dependent claim 44, claim 44 reflects the apparatus comprising computer readable instructions used for performing the methods as claimed in claim 22, and is rejected along the same rationale.

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(11) Response to Argument

Appellant argues in section VI of the Appeal brief (hereinafter the brief) the following issues which are accordingly addressed below:

a. *“Balogh does not disclose retrieving information, including find similar clips indicia and keywords, associated...based on human judgment regarding the content of the media clip”* (page 13 – at middle, of the brief).

The examiner respectfully disagrees. Balogh is a multimedia database, each image (or clip) containing associated metadata information (i.e. keywords, descriptive phrases, etc.) authored by a human user, said information used to categorize said image for query purposes. Balogh teaches a user query “red trucks”, along with other possible inputted information (Balogh column 11 lines 60-67). This information is processed via keyword techniques (Balogh column 12 lines 8-14). Captions that match queries (hits) are returned and displayed (Balogh column 14 lines 3-5). The query process is iterative, further queries can be formulated using previously displayed results as a base (Balogh column 14 lines 40-60). Balogh also teaches a view button to allow a user to view the images of the hits that said user has selected, therefore the images, along with its associated keywords and indicia (all pertinent information) are displayed at substantially the same time for possible further query (see Balogh column 16 lines 55-62).

Balogh teaches criteria associated with images or media clips (Balogh column 3 lines 20-43, especially lines 30-31 “video clip or other multimedia object”). The associations and suggestions authored by a human user using his/her judgement serve to categorize and identify each image accordingly.

Appellant defines “hidden” criteria as a keyword (i.e. type artistic style – describing a clip) stored in a clip catalogue when the clip is added to the catalog, said keyword can be optional, and is non-modifiable by a

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user (page 10 lines 24-29 of Appellant's Specification). Although the rejection states that Balogh does not specifically teach "hidden" criteria, nevertheless, Balogh's descriptive captions and keywords suggest a form of hidden criteria. The examiner uses the Cox reference to explicitly teach this feature, however, as will be made clear below.

b. *"Cox discloses a queryless multimedia database retrieval method and system..."*, and *"Cox discloses an entirely software driven selection system. No human judgement is involved in the criteria used to identify clips based on user selection."* (page 14 of the brief).

The examiner respectfully disagrees. Cox is not a "queryless" method and system. Cox's invention attempts to narrow down results by iterative user selection of images within a result set (user selection of an image is a query). The user inputs are processed accordingly. The examiner relies on Balogh to teach "human judgment". However, the iterative user selections that a user makes with Cox is also a form of human judgment as well, since a human chooses selections subjectively.

Section VIII (pages 14-16) of the brief is directed to a recitation of the examiner's rejection. Beginning on page 18, Appellant argues the following issues which are accordingly addressed below.

c. *"There is no motivation to combine Balogh and Cox to arrive at the claimed invention."* (page 18 – top, of the brief).

The examiner respectfully disagrees. Both references deal with assigning criteria to media objects. Both references are image and/or multimedia databases, and both references rely upon human judgment for refining results (Balogh additionally uses human judgment for assigning initial criteria to images). Cox is used to teach

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criteria that is hidden from the user. This is specific data (Cox column 6 lines 1-23) such as color percentages, etc. which are not shown to a user, since they are totally hidden and is specific to each image. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Cox's specific color percentages, etc. to Balogh's human applied criteria, providing Balogh the benefit of intelligent (accurate) analysis of media images incorporating hidden search criteria, which may not be explicitly present in a user's vocabulary (or known to the user). In other words, users typically do not apply specific color percentages, degree of hue, etc. in their queries. The combination of Cox and Balogh results in increased accuracy of query results.

d. *"Balogh fails to teach or suggest 'in response to a user selecting a media clip, retrieving information..."*
(page 18 of the brief).

"Thus Balogh teaches returning matches based only on words or language entered as a query. In contrast, the present invention teaches beginning with a media clip (rather than words or language), and retrieving information 'in response to a user selecting a media clip.'" (page 19 of the brief).

The examiner respectfully disagrees. Balogh teaches a user selecting a result image for "further query" (see Balogh column 14 lines 51-60). A user can select a desired image via drag and drop, all its associated criteria is then copied to form a new query, and is open to further editing, etc. Balogh does not rely solely on words and language, but instead relies on the combination of criteria and the media object itself (a main point of Balogh is to ultimately choose a media object (i.e. for licensing, etc.).

Regarding Appellant's argument directed to its invention "beginning" with a media clip, it is respectfully submitted that Appellant is reading the specification into the claims. Representative claim 1 does not require that a user "begins" with a media clip, and said claim does not preclude the use of iterative searches. Balogh teaches selection of an image as explained above, for further query.

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As explained in item a above, Appellant defines “hidden” criteria as a keyword (i.e. type artistic style – describing a clip) stored in a clip catalogue when the clip is added to the catalog, said keyword can be optional, and is non-modifiable by a user (page 10 lines 24-29 of Appellant’s Specification). Although the rejection states that Balogh does not specifically teach “hidden” criteria, nevertheless, Balogh’s descriptive captions and keywords suggest a form of hidden criteria. The examiner uses the Cox reference to explicitly teach this feature, however, since Cox teaches “true hidden” criteria which is never shown to a user, but is nevertheless taught as essential criteria used to identify and judge an image.

e. *“Balogh fails to teach or suggest....displaying to the user **an option** for finding similar media clips that have an associated find similar...”* (page 23 – bottom, of the brief).

*“However, Balogh does not disclose displaying to the user **an option** (for selection) for finding similar clips, without entering a new query with new search language.”* (page 24 of the brief).

The examiner respectfully disagrees. Balogh teaches a user selecting a result image for “further query” (see Balogh column 14 lines 51-60). A user can select a desired image via drag and drop, all its associated criteria is then copied to form a new query, and is open to further editing, etc. Balogh does not rely solely on words and language, but instead relies on the combination of criteria and the media object itself (a main point of Balogh is to ultimately choose a media object. Balogh teaches this option by providing the optional capability of further search refinement via visually dragging and dropping an image, editing, etc. Balogh teaches that the associated criteria/keywords are copied and can be “further edited” (see Balogh column 14 lines 50-60), a user can then change one keyword while keeping all other criteria the same, therefore “similar” images can be found that match at least some of the criteria. Representative claim 16 does not specifically limit new queries with new search language. Indeed, even if said claim did recite this, Cox teaches automatic query refinement based solely on a user selecting an image.



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Appellant's arguments from page 25 to page 29 of the brief (items E and F), are substantially similar to those previously presented. Accordingly, the examiner's rebuttal and rational as applied above is applied here as well.

Appellant's arguments from page 29 to page 33 of the brief (items G and H), are substantially similar to those previously presented. Accordingly, the examiner's rebuttal and rational as applied above is applied here as well.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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